

REMARKS

Applicant respectfully requests reconsideration of the present application in light of the foregoing amendments and the following remarks.

Claims 11-15, 27-30, and 32-42 stand rejected. These rejections are respectfully traversed and reconsideration of the pending claims, as amended, is respectfully requested. Claims 11 and 27 are amended. New claim 43 is added. No new matter is added. Claims 11-15, 27-30, and 32-43 are pending.

I. Claims 11-15, 27-30, and 32-42 are patentable over Ito in view of Sitrick

Claims 11-15, 27-30, and 32-42 stand rejected as allegedly being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Appln. No. 2003/012401 to Ito (“Ito”) in view of U.S. Patent No. 6,084,168 to Sitrick (“Sitrick”). Applicant’s independent claims 11 and 27, as amended, and their corresponding dependent claims 12-15, 32-38, 28-30, and 39-42, respectively, recite elements that are not taught or suggested by Ito in view of Sitrick. Applicant respectfully traverses this rejection and requests reconsideration of these claims, as amended.

Applicant’s independent claim 11, as amended, recites:

A system of music devices operatively coupled together, the system comprising:
 plural apparatus in physical proximity with each other and capable of at least one-way communication therebetween of an audio score,
 at least two such apparatus each comprising:
 an audio score synthesis mechanism including a playing mechanism for playing the synthesized audio score;
 an audio score mixing mechanism coupled with said synthesis mechanism for mixing plural audio scores to produce another audio score having components of each of the plural audio scores;
 an audio score input mechanism coupled with said mixing mechanism to provide one or more input audio scores thereto for mixing with the synthesized and played audio score,
 said synthesis mechanism, said mixing mechanism and said input mechanism being operable in real time to create a playable audio score having components of plural audio scores produced by said plural proximate apparatus;
 a recording mechanism to store said playable audio score; and
 an upload mechanism to upload said playable audio score to an external processor that is discrete from the plural apparatus for at least one of editing, archival recording, outplaying, and CDROM programming.

Applicant’s independent claim 27, as amended, recites:

A musical system comprising:
a wireless network; and
plural portable musical apparatus in physically separated proximity with each other and capable of two-way communication therebetween of an audio score over said wireless network, each musical apparatus including:
an audio score synthesis mechanism;
an audio playing mechanism coupled with said network;
an audio input mechanism coupled with said network; and
an audio score mixing mechanism coupled with said synthesis mechanism, said input mechanism and said playing mechanism, said mixing mechanism configured to mix a first audio score from said synthesis mechanism with a second audio score from said input mechanism to produce in real time a playable audio score having components of each of the first and second audio scores; and
at least one of a recording mechanism and an upload mechanism, said recording mechanism to store said playable audio score, and said upload mechanism to upload said playable audio score to an external processor that is discrete from the plural portable musical apparatus over said wireless network.

Under MPEP 706.02(j) and 35 U.S.C. § 103(a), a *prima facie* case of obviousness is made only when each element is taught or suggested by one or more cited references. Ito in view of Sitrick fail to disclose every element of Applicant's independent claims 11 and 27, as amended, and their dependent claims 12-15, 32-38, 28-30, and 39-42, respectively, as discussed below.

The Office relied on Sitrick to disclose that "a master mode (Col. 9, lines 30-40; Col. 17 lines 3-12) reads on 'an upload mechanism to upload said playable audio score to an external processor for archival recording or outplaying', i.e. storing ('thereby permitting one shared music database to be communicating among all workstations which are a part of the group' – Col. 14 lines 55-60)." *See* the Office Action mailed October 18, 2011 at pg. 3. Further, the Office cited to Sitrick to disclose "a central session host computer 105C, said central session host computer comprising said external processor 115" in reference to Sitrick's Figure 1A. *See id.* The processor 115 of the Sitrick system is associated with one particular workstation 105C, as illustrated in Sitrick's Figure 1A. In contrast, the external processor, as recited in Applicant's independent claims 11 and 27, as amended, is "*discrete*" from the plural apparatus and the plural portable musical apparatus, respectively. Applicant's claimed external processor is a discrete element that is separate from the computing element, specifically the processor 115, illustrated in the multiple workstations of Sitrick. Ito fails to disclose anything relating to an external

processor, as recited in Applicant's independent claims 11 and 27, as amended. Therefore, Applicant's independent claims 11 and 27, as amended, recite elements that are not taught or suggested by Ito in view of Sitrick.

Further, the Office relied upon Sitrick to teach that the "plural portable musical apparatus further include[es] a display to display a current musical selection," as recited in Applicant's claim 40. The Office thus equated the display 510 of Sitrick to the display recited in Applicant's claim 42. However, Sitrick does not disclose that the musical apparatus includes a display. Rather, the display 510 of Sitrick is a part of the workstation 500, not the musical instrument 570. The Sitrick workstation 500 is not the same as the portable musical apparatus that is recited in Applicant's claim 40. Moreover, the Ito display 63 element is discrete from any of the keyboard 61 and the other music apparatus 84, and is also not part of the portable musical apparatus, as recited in Applicant's claim 40. Therefore, Ito in view of Sitrick fail to disclose "plural portable musical apparatus further including a display to display a current musical selection," as recited in Applicant's claim 40.

Even further, the Office relied upon Sitrick to disclose a central computer comprising the external processor, as recited in Applicant's claims 41 and 42. The Office cited to element 105C in Figure 1A of Sitrick to teach a central computer. However, element 105C is one of multiple workstations within Sitrick's musical composition communication system. As discussed above, the external processor is not discrete from plural portable musical apparatus, as recited in Applicant's claim 27, as amended. Applicant's claims 41 and 42 depend from Applicant's claim 27, as amended, and further recite that the central computer comprises the external processor, which is *discrete* from the plural portable musical apparatus based on their dependency on Applicant's independent claim 27, as amended. Ito does not cure these deficiencies of Sitrick, as discussed above. Therefore, Ito in view of Sitrick fail to teach or suggest the central computer comprising an external processor, as recited in Applicant's claims 41 and 42.

Applicant respectfully submits that Ito in view of Sitrick fail to teach or suggest every element of Applicant's independent claims 11 and 27, as amended, and their respective dependent claims 12-15, 32-38, 28-30, and 39-42, respectively, and thus do not render these claims unpatentable. Applicant respectfully requests that the Examiner withdraw this rejection and allow these claims for at least these reasons.

II. New claim 43 is patentable

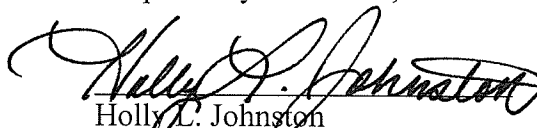
Applicant added new claim 43. New claim 43 is patterned after Applicant's independent claim 11 and further recites the additional elements that "one of the plural apparatus includes a controller that is designated as a master controller and another of the plural apparatus includes a controller that is designated as a slave controller , and wherein designation of the master controller and the slave controller is changeable in real-time." Support for this new claim can be found in Applicant's Specification at page 13, lines 1-8. Neither of the references relied upon by the Office to reject the pending claims, Ito and Sitrick, disclose that the designation of the master controller and the slave controller is changeable in real-time. For at least these reasons, Applicant respectfully submits that new claim 43 is patentable and respectfully requests that the Examiner allow this claim.

III. Conclusion

Applicant submits that the present application is in condition for allowance and such action is respectfully requested. If any questions remain, the Examiner is requested to call the undersigned.

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Respectfully submitted,


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